

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

JAMES P. VICK

PLAINTIFF

v.

Civil No. 06-3067

C.E. "CHUCK" MEDFORD;
LT. BETH REELY; SGT.
ROB McGEE; OFFICER MARK
LOTT; OFFICER MICHAEL BROWN;
OFFICER DEBBIE DAVIS;
OFFICER DAVE HENDERSON;
OFFICER DISHEROON; DEPUTY
JOHN RAINS; DEPUTY GREG
NOFSTGER; PORTIA STINES
(formerly known as Portia Hill); LISA
ADAMS; DEBBIE PRICE; et al.

DEFENDANTS

ORDER

Before the Court is Plaintiff's Motion for a Jury Trial. (Doc. 22). Defendants have objected to Plaintiff's Motion (Doc. 25) on the grounds it is untimely pursuant to Federal Rule of Civil Procedure 38(b).

Plaintiff filed his original Complaint on October 23, 2006 (Doc. 1) and an Addendum on November 28, 2006. (Doc. 6). Plaintiff has since supplemented his Complaint several times. Defendants were served on December 14, 2006 (Doc. 8) and filed an Answer on December 21, 2006. (Doc. 9). Plaintiff's Motion for Jury Trial was filed on February 8, 2007. (Doc. 22)

Federal Rule of Civil Procedure 38(b) states that:

[A]ny party may demand a trial by jury of any issue triable of right by a jury by (1) serving upon the other parties a demand therefor in writing at any time after the commencement of the action and not later than 10 days after the service of the last pleading directed to such issue . . .

Plaintiff's demand for a Jury Trial is clearly untimely under the Federal Rules of Civil

Procedure, as such “the failure of a party to serve and file a demand” as required by the rule “constitutes a waiver by the party of a trial by jury.” Fed. R. Civ. Proc. 38(d). Accordingly, Plaintiff’s Motion for a Jury Trial (Doc. 22) is DENIED.

IT IS SO ORDERED this 5th day of October, 2007.

/s/ *J. Marschewski*
HON. JAMES R. MARSCHEWSKI
UNITED STATES MAGISTRATE JUDGE